

REMARKS

In the present Application, forty-one (41) claims were originally filed. Claims 1-41 currently stand rejected. Claims 1, 8, 14, 18, 30-31, and 40 are amended herein. Applicants respectfully request that the Application be reconsidered in light of the present amendments and accompanying remarks.

Specification

In paragraph 2 of the present Office Action, the Examiner states that "reference related to the application cited in the specification must be updated." Applicants submit that no update is required because the cross-referenced Application is still pending and has not yet issued as a Patent.

35 U.S.C. § 103

In paragraph 4 of the Office Action, the Examiner rejects claims 1-11, 14-18, and 27-28 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,502,123 to Gulick (hereafter Gulick) in view of U.S. Patent No. 6,169,725 to Gibbs et al. (hereafter Gibbs). The Applicants respectfully traverse these rejections for at least the following reasons.

Applicants maintain that the Examiner has failed to make a *prima facie* case of obviousness under 35 U.S.C. § 103(a) which requires that three basic criteria must be met, as set forth in M.P.E.P. §2142:

"First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary

skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations."

The initial burden is therefore on the Examiner to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a).

Applicants respectfully traverse the Examiner's assertion that modification of the device of Gulick according to the teachings of Gibbs would produce the claimed invention. Applicants submit that Gulick in combination with Gibbs fail to teach a substantial number of the claimed elements of the present invention. Furthermore, Applicants also submit that neither Gulick nor Gibbs contain teachings for combining the cited references to produce the Applicants' claimed invention. The Applicants therefore respectfully submit that the obviousness rejections under 35 U.S.C §103 are improper.

Regarding the Examiner's rejection of independent claims 1, 8, 14, and 40, Applicants respond to the Examiner's §103 rejection as if applied to independent claims 1, 8, 14, and 40 which are amended herein to include the same or similar additional limitations. For example, claim 14 is amended herein to recite "*a system user viewing said user interface to interactively perform an analysis procedure of available system resources required to support said requested process, said user interface including projected resource usages for said requested process and allocated resources for existing processes*" which

are limitations that are not taught or suggested either by the cited references, or by the Examiner's citations thereto.

Gulick essentially teaches utilizing only "certified applications" to instantiate isochronous tasks to thereby ensure sufficient system resources. "The operating system will only initiate an application (sic) is known to be well-behaved by checking a list of certified applications" (column 2, lines 49-51).

The Examiner cites column 7, lines 17-29 as support for the rejections of claims 3-5 and 8-11. At the cited passage, Gulick only discloses that a "scheduler 218 may query a user via user interface 220 for action to take" when insufficient resources are available. Applicants respectfully submit that the simple query disclosed by Gulick is far less than the substantial "analysis procedure" performed by a system user of Applicants' claimed invention.

Furthermore, Applicants submit that Gulick discloses few details about how the foregoing query is presented to the system user, and nowhere teaches a user interface that includes "*projected resource usages for said requested process and allocated resources for existing processes*" as disclosed and claimed by Applicants.

Gibbs teaches a system that "automatically maintains and manages the internal connections for each of the devices on the network" (column 3, lines 19-21). However, Applicants submit that Gibbs nowhere discloses or discusses a "user viewing said representation to interactively perform an analysis procedure," as claimed by Applicants.

Regarding the Examiner's rejection of dependent claims 2-7, 8-11, 15-18, and 27-28, for at least the reasons that these claims are dependent from independent claims whose limitations are not taught or suggested, the limitations of these dependent claims, when viewed through or in combination with the limitations of respective independent claims, are also not taught or suggested. Applicants therefore respectfully request reconsideration and allowance of dependent claims 2-7, 8-11, 15-18, and 27-28 so that these claims may issue in a timely manner.

For at least the foregoing reasons, the Applicants submit that claims 1-11, 14-18, and 27-28 are not unpatentable under 35 U.S.C. § 103 over Gulick in view of Gibbs, and that the rejections under 35 U.S.C. § 103 are thus improper. The Applicants therefore respectfully request reconsideration and withdrawal of the rejections of claims 1-11, 14-18, and 27-28 under 35 U.S.C. § 103.

In paragraph 5 of the Office Action, the Examiner rejects claims 12-13 under 35 U.S.C. § 103 as being unpatentable over Gulick in view Gibbs, and further in view of U.S. Patent No. 6,496,864 to McCartney (hereafter McCartney). The Applicant respectfully traverses these rejections for at least the following reasons.

Applicants maintain that the Examiner has failed to make a *prima facie* case of obviousness under 35 U.S.C. § 103(a). As discussed above, for a valid *prima facie* case of obviousness under 35 U.S.C. § 103(a), the prior art references when

combined must teach or suggest all the claim limitations. The initial burden is on the Examiner to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a).

Regarding the Examiner's rejection of independent claim 12, Applicants submit that claim 12 now recites "displaying a representation for a particular one of a plurality of tasks being handled by the device, said user viewing said representation to interactively perform an analysis procedure of available system resources required to support an additional isochronous process" which are limitations that are not taught or suggested either by the cited references, or by the Examiner's citations thereto.

Applicants here incorporate the foregoing arguments made above with regard to cited references by Gulick and Gibbs. The Examiner cites McCartney as further support for the rejections of claims 12-13. McCartney essentially teaches utilizing a "cleanup function" that may be implemented "for freeing shared system resources that remain allocated to a process after the process has terminated" (column 5, lines 27-29). Unlike Applicants' claimed invention, McCartney is therefore directed towards ending an existing process rather than initiating a new process.

In particular, the Examiner points to column 3, lines 36-64, of McCartney as support for the foregoing rejections. Applicants respectfully submit that the cited passage from McCartney nowhere discusses or suggests a "user viewing said representation to interactively perform an analysis procedure," as recited in claim 12. Furthermore, Applicants submit that none

of the cited references disclose displaying a representation for “a particular one of a plurality of tasks being handled by the device.” For at least the foregoing reasons, Applicants therefore submit that the rejection of claim 12 is improper.

Regarding the Examiner’s rejection of dependent claim 13, for at least the reasons that claim 13 is dependent from an independent claim whose limitations are not taught or suggested, the limitations of claim 13, when viewed through or in combination with the limitations of the corresponding independent claim, are also not taught or suggested. Applicants therefore respectfully request reconsideration and allowance of dependent claim 13 so that these claims may issue in a timely manner.

For at least the foregoing reasons, the Applicants submit that claims 12-13 are not unpatentable under 35 U.S.C. § 103 over Gulick in view of Gibbs and McCartney, and that the rejections under 35 U.S.C. § 103 are thus improper. The Applicants therefore respectfully request reconsideration and withdrawal of the rejections of claims 12-13 under 35 U.S.C. § 103.

In paragraph 6 of the Office Action, the Examiner rejects claims 19-26 and 29-39 under 35 U.S.C. § 103 as being unpatentable over Gulick in view Gibbs, and further in view of U.S. Patent No. 6,591,290 to Clarisse et al. (hereafter Clarisse). The Applicant respectfully traverses these rejections for at least the following reasons.

Applicants maintain that the Examiner has failed to make a *prima facie* case of obviousness under 35 U.S.C. § 103(a). As discussed above, for a valid *prima*

facie case of obviousness under 35 U.S.C. § 103(a), the prior art references when combined must teach or suggest all the claim limitations. The initial burden is on the Examiner to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a).

Applicants respectfully traverse the Examiner's assertion that modification of the device of Gulick according to the teachings of Gibbs and Clarisse would produce the claimed invention. Applicants submit that Gulick in combination with Gibbs and Clarisse fail to teach a substantial number of the claimed elements of the present invention. Furthermore, Applicants also submit that neither Gulick, Gibbs, nor Clarisse contain teachings for combining the cited references to produce the Applicants' claimed invention. The Applicants therefore respectfully submit that the obviousness rejections under 35 U.S.C §103 are improper.

Applicants here incorporate the foregoing arguments made above with regard to cited references by Gulick and Gibbs. The Examiner further cites Clarisse as support for the rejections of claims 19-26 and 29-39. Clarisse essentially teaches "using network based applications that are machine-independent and network independent" (column 2, lines 12-15). However, Clarisse nowhere discloses or discusses "*a system user viewing said user interface to interactively perform an analysis procedure of available system resources required to perform said requested process, said user interface including projected resource usages for said requested process and allocated*"

resources for existing processes,” as claimed by Applicants in independent claim 14.

Therefore, regarding the Examiner’s rejection of dependent claims 19-26 and 29-39, for at least the reasons that these claims are dependent from independent claim 14 whose limitations are not taught or suggested, the limitations of these dependent claims, when viewed through or in combination with the limitations of the corresponding independent claim, are also not taught or suggested. Applicants therefore respectfully request reconsideration and allowance of dependent claims 19-26 and 29-39 so that these claims may issue in a timely manner.

In addition, Applicants submit that claims 29-39 recite specific implementations for the claimed “user interface” that are not taught by any of the cited references. For example, claims 36-38 recite details for an “expanded user interface” that includes a “task summary display” and a “task details display that includes individual resource details for one or more selected tasks.” Applicants therefore submit that the cited references fail to teach all the claimed elements of claims 19-26 and 29-39.

For at least the foregoing reasons, the Applicants submit that claims 19-26 and 29-39 are not unpatentable under 35 U.S.C. § 103 over Gulick in view of Gibbs and Clarisse, and that the rejections under 35 U.S.C. § 103 are thus improper. The Applicants therefore respectfully request reconsideration and withdrawal of the rejections of claims 19-26 and 29-39 under 35 U.S.C. § 103.

In paragraph 7 of the Office Action, the Examiner rejects claims 40 and 41 under 35 U.S.C. § 103 as being unpatentable over Gibbs in view of Gulick. The Applicant respectfully traverses these rejections for at least the following reasons.

Applicants maintain that the Examiner has failed to make a *prima facie* case of obviousness under 35 U.S.C. § 103(a). As discussed above, for a valid *prima facie* case of obviousness under 35 U.S.C. § 103(a), the prior art references when combined must teach or suggest all the claim limitations. The initial burden is on the Examiner to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a).

Independent claim 40 is amended to include the same limitations that have been herein added to independent claim 14. Applicants therefore here incorporate by reference the remarks and arguments made above with reference to claim 14. With regard to claim 41, “means-plus-function” language is utilized to recite elements and functionality similar to those recited in claim 14 which is discussed above. Applicants therefore incorporate those remarks by reference with regard to claim 41. In addition, the Courts have frequently held that “means-plus-function” language, such as that of claim 41, should be construed in light of the Specification. More specifically, means-plus-function claim elements should be *construed to cover the corresponding structure, material or acts described in the specification*, and equivalents thereof.

Applicants respectfully submit that, in light of the substantial differences between the teachings of the cited references and Applicants’ invention as

disclosed in the Specification, claim 41 is therefore not anticipated or made obvious by the teachings of Gibbs and Gulick. Applicants specifically direct the Examiner's attention to Applicants' discussion of FIGS. 8-11 (Specification, page 18, line 11 through page 24, line 4) which describes in detail the Applicants' claimed "means for generating a user interface"

For at least the foregoing reasons, the Applicants submit that claims 40-41 are not unpatentable under 35 U.S.C. § 103 over Gibbs in view of Gulick, and that the rejections under 35 U.S.C. § 103 are thus improper. The Applicants therefore respectfully request reconsideration and withdrawal of the rejections of claims 40-41 under 35 U.S.C. § 103.

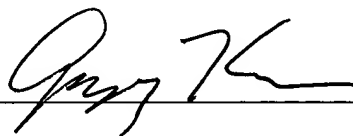
Summary

Applicants submit that the foregoing amendments and remarks overcome the Examiner's rejections under 35 U.S.C. §103(a). Because the cited references, or the Examiner's citations thereto, do not teach or suggest the claimed invention, and in light of the differences between the claimed invention and the cited prior art, Applicants therefore submit that the claimed invention is patentable over the cited art, and respectfully request the Examiner to allow claims 1-41, so that the present Application may issue in a timely manner. If there are any questions concerning this amendment, the Examiner is invited to contact the Applicants' undersigned representative at the number provided below.

Respectfully submitted,

Date: _____

7/20/04



Gregory J. Koerner, Reg. No. 38,519
SIMON & KOERNER LLP
10052 Pasadena Ave., Suite B
Cupertino, CA 95014
(408) 873-3943